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CPSC'S
GUIDE
FOR
RETAILERS

REPORTING
AND
OTHER
RESPONSIBILITIES



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NEED MORE INFORMATION?

If you have any additional questions after reading this booklet, please call your local CPSC Regional Office or the Commission's toll-free "hotline", 800-638-CPSC (800-638-2772)

To file a report or if you have a question about whether to report, call the Commission's Division of Corrective Actions (phone: 301/492-6608) or the Commissions' Toll-free "hotline" (800-638-CPSC), and the Corrective Actions Division will return your call.

You may also want to write the Commission. The address is:

U.S. Consumer Product Safety Commission
Washington, D.C.
20207

Regional Office Addresses:

Midwestern Regional Office	— 230 South Dearborn Street, Rm 2944 — Chicago, Illinois 60604 312-353-8260
Southeastern Regional Office	— 730 Peachtree Street, NE Suite 871 — Atlanta, Georgia 30365 404-881-2231
Southwestern Regional Regional Office	— 1100 Commerce Street Room 1C10 — Dallas, Texas 75242 214-767-0841
Western Regional Office	— 555 Battery Street, Room 415 — San Francisco, California 94111 415-556-1816
Northeastern Regional Office	— 6 World Trade Center — Vesey Street, 3rd Floor New York, New York 10048 212-264-1125

CPSC's GUIDE FOR RETAILERS

REPORTING AND OTHER RESPONSIBILITIES

Introduction

The U.S. Consumer Product Safety Commission is an independent regulatory agency created in 1972. It has as its prime responsibility a mission to protect consumers from unreasonable risks of injury and death associated with consumer products.

The Commission administers five acts and has jurisdiction over more than 15,000 consumer products. It does not have jurisdiction over boats, cars, planes, food, drugs, cosmetics, pesticides, medical devices, alcohol, tobacco and firearms.

In recent years it has had as priority projects. Toxicity of Combustion Products, Electrocution Hazards, Gas Heating Systems, Portable Electric Heaters, Safety for Older Consumers, and Riding Mowers.

Working with industry, the Commission has encouraged voluntary standards. Since 1973 it has been involved in 102 voluntary standards projects resulting in 62 new ones and revision of 29 others. Products affected include playpens and mesh-sided cribs, infant strollers, ladders, electric blankets, extension cords and upholstered furniture.

During the past few years a strong cooperative relationship has been established between the Commission and those segments of business and industry that it regulates. Instead of placing an emphasis on regulation and confrontation, the Consumer Product Safety Commission has sought to work with business and industry for the benefit of the American consumer.

This booklet is designed to specifically encourage this type of relationship with the retailing community.

Retailers' Role in Promoting Safety

The retailer is uniquely situated to promote the concept of consumer product safety in four different ways.

First, by purchasing and selling those consumer products which conform to established mandatory safety regulations and applicable voluntary standards.

Second, by providing appropriate informational materials at the point of sale, with the product and in advertising.

Third, by complying with the requirements of the law and regulations to report any defect in a product that could possibly create a substantial hazard.

Fourth, by assisting in the recall or repair of a product by a manufacturer, or when the Commission announces a recall as part of a corrective action program.

Retailers' Legal Responsibilities

In addition, where applicable, retailers are required to abide by four acts and regulations administered by the Commission.

There are four acts, instead of a single comprehensive document, because when the Commission was formed in 1972 it was given authority to administer acts formerly under the jurisdiction of the Department of Commerce, the Federal Trade Commission and the Food and Drug Administration, as well as administering the Consumer Product Safety Act.

Each act has a different set of requirements because each act deals with a separate area of concern for the Commission. The requirements of the acts that affect retailers are not complicated once they are understood.

CONSUMER PRODUCT SAFETY ACT

Description

The Consumer Product Safety Act is the act that created the U.S. Consumer Product Safety Commission. It provides the Commission with comprehensive authority to set and enforce safety and labeling standards, ban products that cannot be made safe, order recall of defective products and rid the marketplace of imminently hazardous consumer products.

Active participation by consumers, industries that deal with consumer products, and voluntary standards associations, is encouraged by the law. Obligations to report to the Commission on certain product defects are imposed on manufacturers (including importers) distributors and retailers.

Retailers' Responsibilities

*Retailers must
report in
24 hours*

A retailer *must*, under Section 15 (b) and the Commission's regulation, report orally or in writing to the Commission within 24 hours any time the firm believes a product being sold is in violation of a product safety rule issued under the CPSA *or* may contain a defect that could create a substantial product hazard.

*Pick up the
phone or send
copy of letter*

The Commission regulations make it very easy for retailers to comply with this provision. Retailers and distributors may fulfill their reporting obligations simply by reporting to the Commission or by sending a letter describing the defective or noncomplying product to the manufacturer (or importer) of the product, and sending a copy of the letter to the Commission's Corrective Action Division.

*Obligations of
retailer
continues*

The reporting obligation applies to manufacturers (including importers) distributors, and retailers and continues until the manufacturers, distributors or retailers have *actual* knowledge that the Commission is adequately informed of the potential problem.

A private labeler who is a manufacturer, distributor or retailer has the same reporting obligation.

In addition, this reporting obligation applies to all acts the Commission administers and enforces.

Thus, you should report to the Commission if you become aware of a potential substantial product hazard with any product you sell that is subject to CPSC jurisdiction, unless you have *actual* knowledge that the Commission has been adequately informed.

 ***Call for
assistance***

To file a report or if you have a question about whether to report, call the Commission's Division of Corrective Actions (phone: 301/492-6608) or the Commission's Toll-free "hotline" (800-638-CPSC), and the Corrective Actions Division will return your call.

By noting your customers' complaints and through your own expertise with consumer products, you may help to initiate the removal of a dangerous product from the market.

 ***Participate in
recalls***

If a certain product is being recalled, a retailer of that product may be requested to participate in the recall. This is an important aspect of product safety, and your assistance is of paramount importance. For instance, in a program you may be asked to identify purchasers of the product and tell them how they may return the item or have it fixed. The program may involve notification of the risk of injury by posting signs, and repair or replacement of the product or a refund of its purchase price when the product is returned to you. It can not be stressed strongly enough how much your cooperation is needed.

FEDERAL HAZARDOUS SUBSTANCES ACT (FHSA)

Description

The FHSA as originally enacted in 1960, was a hazardous substances labeling act. The 1966 and 1969 child protection and toy safety provisions were added.

Under the law, the Commission has authority to require warning labels for hazardous household substances such as oven cleaners and furniture polish. Where labeling provides inadequate protection, some substances may be banned.

Dangerous toys or other articles for use by children may also be banned. The Commission has, by regulation, published test methods and requirements concerning hazardous children's articles.

Retailers' Responsibilities

Must stop sale of banned or misbranded products

The FHSA was again amended in August 1981. As a result of the amendment, the obligations of retailers will vary depending on the product and the hazard it presents.

If a manufacturer or distributor notifies you that products sold to you are banned or misbranded under FHSA, you must stop selling these products immediately and remove them from your sales floor. Their sale is illegal. You will be instructed to return the products to the manufacturer/distributor, destroy them or sometimes to repair them.

Signs will be tailored to recall

Under the new amendments the posting of signs listing banned articles will not be required in every recall. If a banned product presents a serious hazard to users the manufacturer/distributor may request that you post a sign in your store to alert your customers that they may have purchased banned products, and that they should stop using them immediately and return them to the store where purchased. The signs you will be asked to post will look different from the previous "Banned Article or Substance List," and "Notice of Refund Procedures for

Banned Articles or Substances" and the "Banned Articles or Substances List and Repurchase Procedures" signs. The FHSA no longer specifies the exact wording and the size of the sign. Signs will be tailored to the product and the type of recall.

✓ ***Flexibility
will be used***

The amended FHSA provides for flexibility in the way in which recalls are carried out. You may be requested to refund the purchase price or a portion of it to customers who return banned products, to accept the banned products in exchange for similar products which are not in violation of the FHSA, or to modify returned products in some way so as to eliminate violations. The manufacturer/distributor should reimburse you for reasonable expenses incurred in carrying out the recall.

✓ ***Must not sell***

Your unchanged and primary obligation is NOT TO SELL a product that is in violation of the Federal Hazardous Substances Act.

FLAMMABLE FABRICS ACT (FFA)

Description

The FFA was enacted in 1953 and revised in 1967. The law prohibits manufacture and sale in commerce of certain fabrics and fabric products that fail to meet published flammability standards.

These standards apply to clothing, clothing textiles, children's sleepwear (size 0-14), carpets and rugs, and mattresses.

All of the standards under this act have been in effect for some time. Each standard establishes an acceptable level of flammability performance, and all such products sold in the United States must comply with the applicable standard.

One common exception is that a non-complying small carpet or rug (no dimension greater than 6 feet and an area no greater than 24 square feet) may be sold if it bears a label stating that it does not comply with the standard.

Retailers' Responsibilities

 <i>May request guarantee</i>	Products subject to the FFA standards are not required to bear a label stating compliance with the applicable standard, although retailers may request a guarantee of compliance. The guarantee is usually provided as a statement on the invoice or in a letter from the manufacturer (importer) to the retailer.
 <i>Sleepwear must bear label</i>	Although children's sleepwear is not required to bear a label stating compliance with the standard, all complying children's sleepwear must bear a label with a production unit number. In the case of children's sleepwear, this number is generally preceded by the letters GPU. (GPU stands for garment production unit.)
 <i>Mattresses must bear label</i>	Mattresses and mattress pads must be labeled to indicate the month, year and place of manufacture.

✓ Care and
washing
instructions

In addition, items of children's sleepwear must bear a label with precautionary care and treatment instructions, if certain laundering agents or treatments are known to cause deterioration of the garment's flame resistant characteristics.

Although not required by the FFA, the CPSC advises retailers selling all types of children's clothing to:

- 1) segregate by placement in different parts of a department store, fabrics and garments covered by the children's sleepwear standards from all fabrics and garments that are beyond the scope of these standards, but which resemble items of children's sleepwear.
- 2) to utilize store display signs indicating the distinction between types of fabrics and garments, for example, by indicating which are sleepwear items and which are not.
- 3) to avoid the advertisement or promotion of a noncomplying fabric or garment in a manner that may cause the item to be viewed by the consumer as an item of children's sleepwear.

✓ Sale of
noncomplying
good is illegal

The sale in commerce of children's sleepwear items or any other item that fails to comply with an applicable flammability standard issued under the FFA is prohibited and could subject the retailer to legal sanctions and/or penalties.

POISON PREVENTION PACKAGING ACT (PPPA)

Description

The PPPA, enacted in 1970, is designed to reduce risks of injury to children under the age of five from accidental ingestion of drugs or household substances found to be hazardous to children. Under authority provided by the law, the Commission has set standards for child-resistant safety packaging of many products.

Products that require child-resistant packaging include most aspirin preparations, oil of wintergreen, antifreeze, many drain and oven cleaners, methanol, certain furniture polishes, certain iron-containing preparations, paint thinners and solvents, oral prescription drugs, controlled drugs, turpentine, kindling and illuminating preparations (lighter fluids) and drugs that contain acetaminophen or diphenhydramine.

Retailers' Responsibilities

 <i>Required to dispense in CRCs</i>	Pharmacists have a special obligation since they are required to dispense oral prescription drugs in CRCs—child-resistant closures—unless requested otherwise by the customer or the prescribing physician (or unless specifically exempted from the requirements, i.e., nitroglycerin for heart patients.)
 <i>Can have one exemption</i>	For regulated products other than oral prescription drugs, conventional packaging in one size may be used if it contains a label warning against its use in a household with small children. This exemption allows easy access for the elderly and handicapped. However, the exemption applies only if the manufacturer has also supplied the product in child-resistant packaging.
 <i>Good to carry a range</i>	Also, in order for this exemption not to undermine the objective of the PPPA, the CPSC suggests that retailers carry the size ranges of products equipped with child-resistant closures as well as any exempt package.